

FILED
U.S. DISTRICT COURT
ATLANTA, GA

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

CLERK Cedelle
SO. DIST. OF GA.

GARY CHARLES BRESTLE,

CIVIL ACTION NO.: CV212-116

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

O R D E R

Plaintiff filed an Objection to the Magistrate Judge's Report dated September 25, 2012, which recommended dismissal of his Complaint brought under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671, *et seq.* After an independent and *de novo* review of the record, the undersigned concurs with the Magistrate Judge's Report and Recommendation.

Plaintiff filed an action against the United States alleging that certain employees at the Federal Satellite Low in Jesup, Georgia, interfered with his ongoing legal affairs. Plaintiff also claims that those employees failed to report crimes against the United States and conspired to conceal criminal activities against both the United States and Plaintiff. Plaintiff further alleges that those employees interfered with the administration of justice using coercion and intimidating tactics to stop ongoing judicial proceedings. Plaintiff also alleges that employees of the Bureau of Prisons violated the "Continuing

Violations Doctrine." (Doc. No. 18, p. 1). Plaintiff also makes vague allegations that inmates and people outside of the prison were conspiring to subvert international banking laws and that those unlawful actions were concealed by the United States. Plaintiff alleges that he wanted to pursue a legal claim regarding allegations of being defrauded but that he was hindered by several different federal employees. Finally, he alleges that he was placed in solitary confinement as a means of coercion to drop a pending lawsuit.

The Magistrate Judge recommended dismissal of Plaintiff's Complaint for lack of subject matter jurisdiction. As discussed by the Magistrate Judge, the FTCA provides a limited waiver of sovereign immunity for actions against the United States alleging:

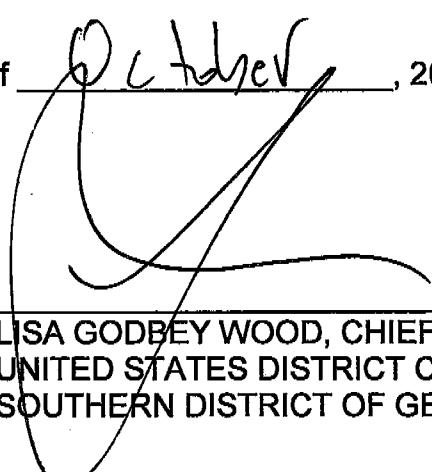
injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

28 U.S.C. § 1346(b)(1). The Magistrate Judge determined that because Plaintiff has not alleged "injury or loss of property, or personal injury or death" caused by any act or omission by any employee of the government, the Court does not have subject matter jurisdiction over Plaintiff's claims.

In his Objection, Plaintiff argues that the Magistrate Judge erred in recommending dismissal of Plaintiff's Complaint because the "discretionary function exception" to the FTCA's waiver of sovereign immunity does not apply. (Doc. No. 44, pp. 2, 5). The Magistrate Judge did not base his recommendation on the "discretionary function exception" to the FTCA's waiver of sovereign immunity. As a result, Plaintiff's argument is not persuasive.

Plaintiff's Objection to the Magistrate Judge's Report and Recommendation is without merit and is **overruled**. The Report and Recommendation of the Magistrate Judge is adopted as the Opinion of the Court. Defendant's Motion to Dismiss is **GRANTED**. Plaintiff's Complaint is **DISMISSED**. Plaintiff's Motion for Summary Judgment is **DISMISSED** as moot. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 15 day of October, 2012.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA